

# **SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL**

**AUGUST 5, 2013**

**KENDALL-DEAN SCHOOL AUDITORIUM**

**7:00 P.M.**

**The meeting began at 7:02 P.M. with the prayer and pledge to the flag.**

**Council members present were Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Ms. Alves was away on vacation. Town Administrator Hamilton and Town Solicitor Lombardi were also in attendance.**

## **PROPOSED ORDINANCE RE: CHICKEN HENS**

**Mr. Flaherty had sponsored this ordinance but stated he has to withdraw from the sponsorship, not because he doesn't support it but that he feels that it isn't a priority and reserves his time to top priority issues. He asked that if anyone would like to sponsor it but that it won't be on the agenda again under his sponsorship. He commented that he doesn't have the time to devote to it making the edits to this ordinance but suggested anyone can pick it up and sponsor it going forward.**

**Mr. Zwolenski's concern is enforcement and he would like to continue the matter to another meeting because he has some serious concerns and questions regarding enforcement procedures on setbacks and side yards.**

**Rhonda Mandeville of 72 Main Street expressed her concerns that she**

has a problem with a neighbor who has chickens. She has a swimming pool and a shed just ten (10) feet off of the property line. In the middle of June, her neighbor built a chicken coop six (6) feet off of the property line and sixteen (16) feet away from her swimming pool. She has pictures of the chickens that became loose around her swimming pool. She has asked her neighbor since June to relocate it and he said he would but hasn't as of yet. She is thinking of selling her lake front property and has a concern when people notice that she has a neighbor that has a chicken coop six (6) feet away with the awful smell. She stated she spoke with the Building Inspector, Mr. Benoit and was told that it should be forty (40) feet from the property line and that he would send a letter to them. The zoning law is forty (40) feet. It was 90 days ago since the last time she spoke to her neighbor and unfortunately she doesn't swim in her pool because of the smell of chicken waste. She called and spoke with Ms. Lecuivre of the building department and was told that the upper half of her yard is REA20 and that the coop is located in the upper half.

Mr. McGee agrees that sixteen (16) feet is not far enough.

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Mr. Zwolenski feels that the ordinance should have more stringent measures regarding the requirements. He feels that it should be the responsibility of the Animal Control Officer to check and see if the coop is maintained and cleaned and not the Building Inspector's

**responsibility. He stated that it is going to be a layer of enforcement.**

**Mr. Ernest Alter of 600 Victory Highway feels that from a public health issue, that there is a very dangerous situation and that the chickens are known to carry many dangerous diseases and that they shouldn't forget about that. He feels that the Building Inspector hasn't lived up to the responsibilities of the job.**

**Ms. Hamilton stated that unless someone reports it, only then would the process begin.**

**Mr. Flaherty wants to keep the public hearing open until the town council acts. He asked that the edits from Mr. Zwolenski be made and brought back at the next meeting because of time constraints and will forward the changes to the town clerk.**

**Mr. Zwolenski was in agreement.**

**MOTION by Mr. Zwolenski, seconded by Mr. McGee and voted unanimously on a 4 to 0 aye vote to continue the public hearing and discussion of the proposed ordinance for chicken hens on August 19, 2013.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and voted unanimously on a 4 to 0 aye vote to move up item 5 next on the agenda.**

## **PROPOSED AGREEMENT WITH DV WIND LLC**

**Mr. Flaherty asked Dr. Shumway to make a presentation from the Land Trust perspective on the value of the land being discussed and keeping the agreement separate and apart from this discussion.**

**Dr. Caroly Shumway of 76 Great Road had computer technological issues and was unable to display her presentation on the screen for everyone to follow along.**

**Mr. Zwolenski noted that there wasn't anyone present from DV WIND LLC., at this meeting.**

**Dr. Shumway proceeded with her presentation and stated that in 2006 the comprehensive plan showed how much the town was lacking in open space and should have had 106 acres per 10,000 residents at that time in town and currently the town is at only 88 acres. In 2007 North Smithfield voters approved overwhelmingly a \$3.7m Open Space bond and there is no land that has been protected with this bond yet by the town council. The purpose was to purchase the bond and pay the open debt. The Wind Turbine deal of what is proposed tonight is in part to pay the debt. The purpose of the bond was to purchase open space and pay the debt. She stated that if the town does this, it would put the Town of North Smithfield on the map for conservation in the State of Rhode Island. She noted that Dowling Village was approved as a mixed used project either have the condos**

that were approved or a wind turbine because that is how it was approved. She explained that Phase 4 must have some kind of mixed use component on it and continued to say why is Booth Pond being protected, because the comprehensive plan, are the top ten places in the town to protect. It is in the town's comprehensive plan and is the highest areas to protect and noted that the DEM voted the area the second highest most important area within the State to protect for open bonds funds when the grant was open in 2006. That was the second out of 21 grants proposed at that time. Most of the land is located in Woonsocket and it is noted as an urban forest within the State. Woonsocket has protected 92 acres on their side of Booth Pond and has a considerable amount of land that is already protected. There are fairly decent trails on the land also and are fairly easy to walk and are in good condition around the pond itself. As far as wildlife, it has frogs, painted turtles, waterfowl, deer, birds, turkeys, small mammals and some large mammals. It is the second most diverse pond in Rhode Island and it has 52 species of dragon flies that are the world's greatest mosquito killers that are around. Globe Park in Woonsocket right next door only has 12 species, so she spoke about that there must

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be something special about this location. There are over 20 acres of pools which are important to frogs. This also helps to protect the drinking water for North Smithfield residents. She continued to explain how important the need is for open space for the wild life.

The Land Trust has been working with the Conservation Commission to come up with a better scoring mechanism and came up with a draft on the scoring system looking at properties in town using DEM's scoring system for the open space grant and looking at how Burrillville scores their grants and they looked at the comprehensive plan and other websites to verify features that adds up to 100 for the score. She provided a breakdown on the score which was based on several types of categories including habitat protection, resource protection, river pools, species that are protected in the regional plan and it doesn't score for historical or cultural resources because it doesn't have that in which case it scored the lowest for that and scored perfectly for water protection. The values scored 76 out of 100 and that is pretty high.

Mr. Flaherty asked if there was any criterion that takes into consideration the share size of land.

Dr. Shumway stated that the scoring system states whether it is contiguous to land. It is contiguous to the 92 acres that provides recreation to both Woonsocket and North Smithfield. They would like to place a bench there and renovate the trails. She stated that there is some management that will need to be done and some erosion and some ATV damage and they will try to discourage the use of ATVs and a fishless pond. She stated that in terms of land value, the original value is to protect the land. She stated that they would receive a subsidiary of \$400k from the State to purchase the land and

so they are getting \$40k for a \$1m purchase of land. She also noted that they are under serious time constraints and asked how far they are able to push that grant. They received the grant in 2007 and had to return the money back in 2009 because the deal didn't happen and then she wrote the grant again and got it this time with the town and got it in 2010 and it just expired and they got an extension to October 26. And they have had two extensions. She explained that the Land Trust bore the cost of three appraisals, which they have to do a title search, title insurance, a class one survey, a management plan and have to demonstrate the purchase and sales agreement and all elements have to be in hand by October 26th.

Mr. Flaherty asked if she could explain the \$400k grant that was in tandem with the land trust and the town.

Dr. Shumway stated that the grant would be a joint tenancy for the property. The DEM doesn't allow the 40 acres to be allowed for the wind turbine piece itself. The two one-half acres is carved out and that will be a separate purchase and sales agreement (P & S) between the town and RAM Investment. The 40 acres would be between the land trust and the town. The last appraisal cost \$2,500.00 because DEM required an updated appraisal, the first appraisal cost \$5,000.00 and the second appraisal also cost \$2,500.00 and they have spent approximately \$10k. Normally the money received from DEM, half of it could go to cover those costs but because the land is so costly and they are trying to use all that money to go to the land purchase and

not for the other aspects. There is land being donated by National Grid and they only have \$12k. She expressed that they would like to see both of these items come to fruition.

Mr. Flaherty expressed that he wanted to hear how the Comprehensive Plan, the DEM, Land Trust and the Conservation Commission view the property.

Ms. Carol Ayala of 110 Log Road, a member of the Conservation Commission commented on preserving Booth Pond and its surroundings. She wanted to stress the great opportunity this is to preserve the area for the benefit of the public. She encourages not to abandon the purchase of the property and expressed that the open bond funds are available along with the State grant money and is surprised that there hasn't been any land space purchased after all this time. By passing that bond the town has been given the authority to access that money at which point the town can make the acquisition possible and requesting that they seriously consider to make the purchase possible.

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Mr. Flaherty confirmed that the bond passed in 2006.

Mr. Zwolenski commented that it would be a great location for educational purposes and that it is easy accessible and it is close.



Mr. Ericson stated that at the last town council meeting Mr. Depasquale offered electricity at 5% less than the Town was paying now and I would get written confirmation from Mr. Joe White in a couple of days. He hasn't heard or received anything. This morning he had a meeting with Mr. Brian Bucci of Dowling Village and he explained to him that they are \$5,828.00 per year apart and that is what they are receiving in taxes for that land. He commented that it doesn't make sense that Mark would sell to the town at a loss and all they need to do is make up the difference and make that net zero in cost. And so they called Mr. Joe White and told him and Joe could come down \$5,000.00 and that is the easiest way to get the whole thing done. He stated that Joe did say \$5,000.00 in the e-mail he sent today and Brian knows it is \$5,828.00 and he sure that they can reach that point and feels that they could pass in principal if in agreement if that number is \$5,828.00. He doesn't feel that it is a critical issue giving the enormous value of the land that the town is getting.

Mr. Flaherty recapped that the town council asked if the dollars make sense before they ask Mr. Nadeau to continue negotiating with the town's interest for the remainder of the use. There are some issues that need to be addressed and don't want to waste their time if it wasn't going to make sense for the town. He feels that there is a commitment on behalf of DV Wind to increase the annual lease payment from \$40,000.00 per year to \$45,000.00 per year and also asking Mr. Nadeau to continue negotiating with DV Wind. And making it \$45,828.00 would make it a cost neutral proposition.

**Mr. Lombardi stated that Mr. Nadeau will continue negotiating but he will not be the authorizing signature party.**

**Mr. Flaherty stated that they don't want to authorize to sign when it hasn't been negotiated yet. The question is whether the town ought to be proceeding in purchasing the land regardless of the agreement with DV Wind because they will always retain the option that if they don't like what they see in the DV Wind contract and reserve the option to talk to another land developer, if they want to derive revenue to pay off the bond.**

**Mr. Ericson commented that this would be the best deal that they would ever get for buying open space. He stated that if this can't get done that it is probably hopeless to get any open space at all.**

**Mr. Zwolenski stated that this should not be a stumbling block.**

**Mr. Flaherty stated that the town council directs Mr. Nadeau to negotiate the other points in a timely way and they also have a deadline issue in terms of all the things that need to happen to complete the purchase and he feels that they need to direct Mr. Nadeau to proceed.**

**Mr. McGee is in agreement and wants to move forward.**

**Mr. Lombardi stated that on the next agenda, there should be two separate items. The first one would be to purchase DV Wind and the purchase of the property without DV Wind.**

**Mr. Yazbak questioned the amount, because he thought it was much higher at a past council meeting. He hasn't seen that number anywhere else but in an e-mail. He asked if Mr. Ericson could forward him that information. He asked if they are buying the 2 ½ acres from DV Wind potentially, who are we buying the other 40 acres from?**

**Mr. Ericson stated that the town is buying both from RAM. And they are in the process of preparing a preliminary plan for a sub-division of two lots. And all requirements will be satisfied and that there will be a snake lot inside the larger lot. He also stated that Mr. Brian Bucci has the first right of refusal.**

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**Mr. Lombardi confirmed that he will direct Mr. Nadeau to separate these two issues and come back with two separate agreements, one for the purchase of the land and the other for the Wind.**

**All were in agreement to take the next steps.**

**Ms. Ruth Pacheco of 836 Old Smithfield Road stated that she has been involved with the Land Trust for years when she was the only**

individual and worked very hard for this money for the Town of North Smithfield and commented that she would really want the town to do this.

**MOTION** by Mr. Zwolenski, seconded by Mr. McGee and voted unanimously on a roll call vote to direct Mr. Nadeau to proceed in the negotiations with two separate agreements with DV Wind as directed by the Town Solicitor.

Mr. Flaherty requests that item 8B Outdoor Sound System Permit be moved up next on the agenda. There were no objections.

Mr. Yazbak abstained and removed himself from the outdoor sound system due to being a client of his.

**OUTDOOR SOUND SYSTEM PERMIT – MS. ALACH, MS. ALLISON, MS. PUCSETTI AND MS. FARIBORZ**

The party is a birthday and end of the summer party for friends and will be held on August 24 at 51 Farm Street and they will have a couple of bands play and they are asking for the permit until 12:00 am but are willing to discuss the time.

Mr. Zwolenski would pass this with the stipulation that receiving a letter from the owner of record Ms. Puccetti's mother.

**MOTION** by Mr. Zwolenski, seconded by Mr. McGee and voted on a 3

to 1 vote with Mr. Yazbak abstaining to approve the permit contingent upon receiving a letter from the owners of the property.

## **PUBLIC HEARING ON PROPOSED ZONING AMENDMENT RE: SECTION 17 SITE PLAN REVIEW**

Mr. Flaherty explained that this item was on the agenda back in 2006 and it was never passed and it was supposed to be intended to be passed. The town council back then thought they were passing it but apparently only some of the “T”s were crossed or “I”s dotted. Nothing changes from what the town council thought they passed in 2006. It is the same document.

Mr. Ericson stated that the reason it didn’t pass was that the subsidiary motion wasn’t passed and the then town council President said ok we’re done. The same thing happened with 5.5.3 which is the Rules of Un-developed Land which also has to come back.

Mr. Flaherty stated that the reason it showed up is because the document wasn’t in the codification of the Zoning Board files.

Mr. Ericson agreed and he looked back at the minutes and stated that it was pretty clear that it wasn’t in the books. He stated that most of this is statement of preference. He went through some of the changes that were quite obvious. He expressed when the word “Shall” came up, that was the only legal requirement. He referred to 17-7. “The following specific areas shall be preserved as

undeveloped open space” and he referred to #4. Steep slopes above 15% as measured over a 10 foot interval. It does not allow towns to remove 15% slope areas from calculations of developer land and there is no prohibition requirement for it to be open space. He referred to page 17-14 “All commercial and industrial developments shall use Best Management Practices (BMP) for storm water management design.” The DEM has taken different trend as of 2010. The Best techniques are now called Low Impact Design (LID) Technique. That would have to be changed. On 17-19, the third paragraph down, parking areas shall be located to the rear or sides of buildings out of sight from passing traffic. Some of this was never actually required. He also referenced in general throughout not including ridge lines and Dowling Village is not building ridge lines because it is near the industrial highway buildings. He also referred to page 17-27, on the first paragraph referred to the lighting is an

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example of what they want. He stated that beyond that there is nothing else that stands out. At the Planning Board’s next meeting they will review this and make their recommendations.

Mr. Flaherty asked to put in the new DEM language.

Mr. Ericson stated he would put it in.

Mr. Zwolenski referred to page 17-2 second paragraph, “Proposed

developments which meet the thresholds above, but which the Building Inspector, in concurrence with the Town Planner, determines do not have a significant impact on community aesthetics, traffic, public services and utilities, environmental quality, community economics or public welfare may be exempted from the provisions of Development Plan Review. Such determination shall be presented to the Planning Board in the form of a written report.” He suggests that the Planning Board may request a formal application for review upon the Building Inspector’s and Town Planner’s determination letter.

All agreed that it is important to put that in there along with Mr. Ericson’s changes.

Mr. Zwolenski referred to page 17-2, Sec. 17.3 Review Process, second paragraph “While the Planning Board shall assume primary responsibility for processing, review and approval of all Development Plan Review applications, the Board may, from time to time, rely upon the expertise of a subcommittee serving at the pleasure of, and as advisory to, the Planning Board.” He asked who is going to appoint them and how did this becomes an advisory board, who is on the board and what is it comprised of?

Mr. Ericson stated that it consists of the Town Planner, Public Works Director and the Administrator of Buildings. Basically you would pull together the people you have serving.

**Mr. Zwolenski asked if they should be listed.**

**Mr. Ericson stated that once you start listing them, he asked why not the head of the Conservation Commission. They are not a full-time board. It turns out that the most important thing is getting the principal players together for a vote, it is that they all shed light on this and then in the process it is the pool of information in general that is developed that is far more important than having any specific powers on being on the Planning Board. He started to bring the people together informally on Thursdays to get the critical players together. It is not that they take a vote, it is that they all share light on this and involves a process.**

**Mr. Zwolenski referred to page 17-4 under #11 there is a period after it and all the other numbers do not have periods. He referred to page 17-13, Sec. 17.8.2 Groundwater Resource Protection, anywhere it states Individual Sewage Disposal Systems (ISDS), it should also read On-Site Wastewater Treatment System (OWTS). On page 17-34, Sec. 17.9 Waivers and referred to the last sentence "Requests for waivers shall be based on the impact of the proposal on the quality of life." He asked for clarification of this sentence.**

**Mr. Ericson explained that you can't rely on what Zoning says. Any zoning ordinance can be variance and granted and that it does appear in a lot of zoning board instances.**



**Mr. Zwolenski referred to page 17-34, Section 17.9 Waivers, last sentence “Specific impacts on noise levels, air, surface and groundwater quality, soil, traffic, fiscal.”**

**Mr. Ericson will strike the word fiscal.**

**Mr. Flaherty proposes the changes that were discussed and agreed to in principal be reflected in the next copy in a color other than red. He will continue both the public hearing and the discussion for a vote or other action.**

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**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and voted on a 4 to 0 aye vote to continue the public hearing to September 3, 2013.**

**MOTION by Mr. Zwolenski, to incorporate suggested changes that Mr. Zwolenski, Mr. Yazbak and Mr. Ericson raised for the second reading.**

**Mr. Zwolenski withdrew his two motions due to a conflict with the date because Mr. McGee will not be present at the September 3 meeting and changed it to September 16th.**

**MOTION by Mr. Yazbak, seconded by Mr. McGee and voted unanimously on an aye vote to continue the public hearing to**

**September 16th.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and voted unanimously on a roll call vote to incorporate suggested changes that Mr. Zwolenski, Mr. Yazbak and Mr. Ericson raised at the first reading on the Section 17 Site Plan Review.**

**MOTION by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski and voted unanimously on an aye vote to have the second reading of Section 17 Site Plan Review be held on September 16th, 2013.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and Mr. McGee and voted unanimously on an aye vote to move up item 7B under Old Business, Scheduling Public Hearing Date for Proposed Forestdale School Historic District.**

## **SCHEDULING PUBLIC HEARING DATE FOR PROPOSED FORESTDALE SCHOOL HISTORIC DISTRICT**

**Mr. Jeff Harris of 97 St. Paul Street, Chairman of the North Smithfield Historic District Commission requests that the North Smithfield Heritage Association and the Historic Commission wants to restore the property listed at 190 School Street, the former Forestdale School also known as the L'il Red Schoolhouse as a local historic destination. They are currently looking at a single property under this special circumstance. He explained that the L'il Red School House falls under the frame work under the North Smithfield Historic District**

**Commission (NSHDC) Rules and Regulations and the purpose of their mission statement is associated regulations having to preserve these specific buildings of the town which reflect elements of its cultural, social, economic, critical and architectural history. In addition open store districts, it is designed to stabilize and improve property values and maintain, to strengthen the local economy and to promote the use of the districts specific buildings for the education, pleasure and the welfare of the residents of the town. Currently the L'il Red Schoolhouse serves as a meeting place for several organizations. He explained that it serves the Heritage Association as a depository to maintain many archives and other donated items of historical and educational value of the town and the State. He stated that this is primarily a mutual relationship between the Heritage Association which coincides with the Historic District Commission's mission itself. The mission for the Heritage Association is to identify and acquire homes a range to restore, maintain and open to the public for regulations and preserve for prosperity, places, tracks of land and other historical and educational, architectural, cultural and esthetic value in the North Smithfield and Rhode Island area. Since these two groups are interrelated, he joined the Historic District as a member to have better communication of the two groups. He commended them on how well the Heritage Association did a wonderful job on maintaining the Forestdale School property and it has been constrained due to fiscal reasons and as the time and weather wears on the structure. It is undergoing dialogue with the leasing structure it has. There has been an issue between the school department and**

the town regarding the Forestdale Schoolhouse and who actually holds the lease and negotiations are ongoing. The Heritage Association realizes that because of the need for repairs, they may not be able to do this alone. And so they are willing to form a partnership to try and get them to open other avenues for funding and possibly expand its membership and try and push this forward. If the NSHDC if they adopt this as a local historic district it opens up the avenue for funding federal and State. There is really nothing local at this time. The Historic District Commission itself has formed a sub-committee which is looking presently at opportunities for a certified local grant. He stated that would

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make the Forestdale Schoolhouse under our jurisdiction eligible for some of this. That is given out to the RI Historic and Preservation and Heritage Commission and they are the ones who establish grant programming on an annual basis and they are seeking to have matching funding for a comprehensive architectural study of their existing conditions of the Forestdale Schoolhouse and proper archiving and storage which is really necessary for the school. Currently, our town does not have that right now because some of the things in there are deteriorating rapidly and they need proper archiving and storage. He expressed that it is in dire need of repairs.

Mr. Yazbak requested that when it comes time for the Public Hearing he believes that the North Smithfield Historic Commission is on board

**with this but he would like to have it documented in writing so the town council has a copy of it.**

**Mr. Flaherty asked if the Planning Board indicates whether or not if there should be a consistent statement with their comprehensive plan.**

**Mr. Ericson stated that it is within the zoning ordinance, so they would have to.**

**Mr. Zwolenski asked if this was being leased from the school department for \$1.00 per year.**

**Mr. Harris stated that there is an old lease agreement from many years ago that lists the school department as being the lessor to the Heritage Association and it is a 99 year lease. He also stated that the school department wishes not to have it listed on their budget anymore. That is why the town and Heritage Association are negotiating to try to come up with a new lease agreement and it would fall under the town's jurisdiction.**

**Mr. Zwolenski asked that he does have correspondence from the School Committee.**

**Mr. Harris stated that the Heritage Association has that.**

**Ms. Hamilton stated that it has been approximately six months and they have an obligation to the property itself and it wasn't leased to them but granted to them for their custody.**

**Mr. Flaherty indicated that this is on the list for one of the 16 properties that the Public Facilities Committee is looking at.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and voted unanimously on an aye vote to schedule a public hearing on the Proposed Forestdale School Historic District for Monday, October 7, 2013.**

#### **NORTH SMITHFIELD TOWN COUNCIL SITTING AS THE BOARD OF WATER COMMISSIONERS FISCAL YEAR OF 2014**

**Ms. Hamilton stated that they need permission to set the rate and send out the water bills.**

**Mr. Yazbak reviewed the proposed expenditure budget spreadsheet going back to fiscal year 2011, 2012 and 2013 and stated what revenue was brought in and actual expenditures. After adding up everything, he calculated surpluses of approximately \$270k and commented that yet they are still looking for a rate increase and requesting an explanation.**

**Ms. Hamilton stated that the finance director, Mrs. Brenda MacDonald is on vacation. After speaking with Mr. Carpenter, they were under**

**the assumption that they thought they were still low.**

**Mr. Carpenter stated that the debt service is \$200k and he questions the amount of the debt service and that Mrs. MacDonald assures him that the debt service is \$196k. He is unsure if it is principal and or interest. He stated that there is only three quarters of the bill from Woonsocket billing \$146,576.42 and the 4th quarter bill has just come in.**

**Mr. Yazbak feels that the rates should not go up. He pointed out even when the town pays Woonsocket, there will still be a considerable**  
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**surplus amount and he questions how much of a surplus do they want to build in there. He commented on when it comes to water, sewer and taxes, they should not be raised unless it is absolutely necessary.**

**Mr. Carpenter stated that if there isn't a surplus, someday those rates will skyrocket. He indicated that Woonsocket's rates have increased by 11% this year.**

**Mr. Flaherty stated that because of the several years of surplus, he asked that there isn't a balance for the water Enterprise fund to know how much has accumulated.**

**Ms. Hamilton indicated that legally they can't have a balance and there is a \$206k bill that has to be paid for debt service annually.**

**Mr. Flaherty stated that it appears that some of the debt service whether it is interest is not reflected here.**

**Mr. Carpenter had questioned that before and is in agreement. Under the sewer it says principal and interest but he is unsure of which amount is which.**

**Ms. Hamilton stated that the \$111,479.00 for the debt on the principal and the interest is \$85,005.00 and the total is \$196,485.00. She was aware of the 11% increase and knows it has to go up to accommodate that but stated that they will have to wait until Mrs. MacDonald returns to discuss the debt service with her then. She indicated that water has always ran in the red.**

**Mr. Flaherty asked what the consequences is if they hold the water bills until the next time they meet.**

**Mr. Carpenter indicated that it is the residents who are calling every day for their bills.**

**Mr. Yazbak shared with what they have done in the past with the bills that had been sent out at the old rate because water is billed on a quarterly basis. And the new rates were adopted in the second**



quarter fiscal year instead of the first. He commented that from a cash flow stand point he doesn't want to see the bills held up any longer because they have already been held up. Once they receive answers on the debt service and on the audit reports and they get a better schedule for them to review and then the council feels more inclined to raise rates in the second or third quarter billing.

**MOTION** by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski with discussion to hold off adopting the final budget for the Water Enterprise Fund until they have answers to all of the questions they have tonight and in the meantime if the administration feels so inclined that the bills for the current quarter which are late for the month be released at the old rates and will update at the second quarter.

**MOTION** by Mr. Yazbak, seconded by Mr. McGee and Mr. Zwolenski and voted unanimously on a roll call vote to hold off adopting the final budget for the Water Enterprise Fund until they have answers to all of the questions they have tonight and in the meantime if the administration feels so inclined that the bills for the current quarter which are late for the month be released at the old rates and will update at the second quarter.

## **PROPOSED PROCESS FOR CONSIDERING CHARTER AMENDMENTS**

Mr. Flaherty's intent was to prepare a resolution for creating the Charter Review Commission and has had second thoughts about

**this. As in past Charter Review Commissions he commented that there were lots of ideas, suggestions and each of the past commissions prepared a report that should be changed in the Charter and feels that it would be a waste to panel another commission to go through all of that work with another set of recommendations that they are not going to have room for. He reviewed the 2010 ballot and on there was a total of eight items. They have discussed in the budget process the deficiencies in the Charter as it relates to the budget and all would want to see that addressed on the 2014 ballot. He provided copies in their packets of**

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**the three past Charter Review Commissions and he is recommending that the council spend some time individually to review and they can schedule a date to return to this discussion and have the council come prepared to recommend their top five or eight changes. And they will come to a consensus on those items and they would advance to place on the ballot for consideration by the voters.**

**Ms. Hamilton asked if there is something that is not recommended in the previous recommendations what process would be used for that.**

**Mr. Flaherty stated that does raise a question as part of the review of the previous year's Charters and the Clerk has provided him with minutes and documented proceedings of the Charter Review Commission and there was a reference on July 24, 2006. Mr. Yazbak**

made the point about that the Constitution that provides for amendments to home rule charters in the same manner as the original charter and believes that whatever amendments the Charter Review Commission presented are what have to go before the electorate. He has discussed with the town solicitor and asked if they are bound to only put forward Charter amendments as recommended by the Charter Review Commission. Mr. Lombardi had done some research on that. He wants to know if the Town Council has the authority to recommend changes.

Solicitor Lombardi stated that he went through the Constitution and in Section 8, it points to the legislative body to any city or town they propose amendments to the charter. His initial thoughts are that the council has the authority to make changes. If it comes from a Charter Review Commission and he thinks that they can make changes to that and send it to the electorate. He will do further research.

Mr. Flaherty feels that there is enough analysis that has been done previously to panel a Charter Review Commission all over again when they have two reports of the previous ones this seems not to be a good use of time. He expressed that they will be looking at other deadlines for general assembly approval and feels that they have enough to work with. And if the information is correct, they don't have to have the recommendation from a Charter Review panel in order to include an item on the ballot and they can have that flexibility.

**Mr. Yazbak commented on what is stopping the council appointing themselves as Charter Review Commissioners. It would be the same thing as Board of Licenses Commission. He is in agreement with Mr. Flaherty and they pick four of five areas and that they all have general consensus on and that they are in agreement that need changing.**

**Mr. Flaherty will wait until they receive final confirmation from the solicitor if they can make the changes themselves or technically appoint the council as the Charter Review Commission. He recommends that they return to this item on September 3.**

#### **PLANNING MEMO OF MAY 29, 2013**

**Mr. Zwolenski spoke to the residents regarding Hanton Road and making that a single turn lane and the residents have no desire to make it a single turn lane or will support it. The intent was to look at traffic areas at Park Square and Walgreen's and it is located a half mile away.**

**And he doesn't recall many accidents in that area.**

**Mr. Ericson indicated that it was Lucien Benoit who asked to put it on the agenda. It was to keep people from crossing over four lanes.**

**Mr. Zwolenski stated that there was no research done and suggested to ask the Department of Transportation to study the area from Park Square to the southern entrance of Dowling Village. He stated that he**

can't support this and uses the road every day and doesn't feel the need for it.

Mr. Ericson indicated that the issue was to keep people from crossing four plus lanes to get on to Old Smithfield Road and he thinks that there isn't a demand for that.

Mr. Zwolenski commented that he travels that area several times during peak hours and seldom does he have to stop in between.

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MOTION by Mr. Zwolenski, seconded by Mr. McGee and voted unanimously on an aye vote to accept the Planning Memo of May 29, 2013 correspondence and place on file.

#### **APPOINTMENT TO REDEVELOPMENT AGENCY**

There were no appointments.

#### **UPDATE ON REGULATORY REFORM – Leslie Taito**

Mr. Flaherty stated that Ms. Leslie Taito works for the Office of Regulatory Reform and has been collaborating with the town to be one of the five pilot communities throughout the State to lead on regulatory reform. She unfortunately wasn't able to attend this evening to provide a briefing. He thinks she is planning to attend the next meeting on September 19th. That is one of the items that is on

**our two-year plan.**

**RESIGNATION FROM JUVENILE HEARING BOARD COORDINATOR –  
Ms. Hendrickson**

**Mr. Flaherty stated that Ms. Hendrickson had to resign from the Juvenile Hearing Board due to family issues and will work and train the next person and that the Administrator has been in touch with the Chair of the Juvenile Hearing Board and they are making the effort to identify for a replacement coordinator.**

**MOTION by Mr. Zwolenski, seconded by Mr. Yazbak and voted unanimously on an aye vote to accept the resignation of Ms. Hendrickson from the Juvenile Hearing Board and to have the Clerk send a letter of appreciation for her services to the town.**

**RESIGNATION FROM PERSONNEL BOARD - Ms. Ball**

**Mr. Flaherty indicated that Ms. Ball has moved to Lincoln.**

**MOTION by Mr. Yazbak, seconded by Mr. Zwolenski and voted unanimously on an aye vote to accept the resignation of Ms. Ball from the Personnel Board and to have the Clerk send a letter of appreciation for her services to the town.**

**TRAIL GRANT – Mr. Ericson**

**Mr. Ericson left the meeting and Ms. Hamilton provided an update which includes walking trails at Pacheco Park and at this time they**

are working with the engineer and the DEM with working on getting all of the necessary permits.

Mr. Flaherty asked if there would be some implementation in the fall.

Ms. Hamilton stated that they are hoping that they will begin that project then.

#### **PURCHASE OF FUELMaster GAS MAINTENANCE SYSTEM AND DELL COMPUTER-Mrs. MacDonald**

Mrs. MacDonald is away on vacation.

Mrs. Keegan is recommending purchasing a new Fuelmaster gas maintenance system and computer because the software that was on the computer has crashed. The current system is no longer operational due to both the outdated software and the inability to operate the computer that this software is currently installed on. She stated that the software hasn't been updated since 2003 and that they won't be able to do any reports for the month of July. She explained that they went with National Joint Powers Alliance which is a national purchasing group and the Fuelmaster System is serviced by Trask Petroleum Equipment located in Providence. It is strictly for reporting purposes, it isn't used for gas and also they are requesting to purchase a new up to date computer in the highway department. She has spoken to other department of public works directors from other towns that has this same system and they are very happy and

**pleased with their system.**

**Mr. Yazbak stated he isn't familiar with National Joint Powers Alliance and is unsure if they can circumvent the bidding process unless it is declared an emergency.**

**Mrs. Keegan did look into it and did speak with Solicitor Lombardi and it is a public agency and the town is a member. She did receive a quote from the company on the current system they are using and their**

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**quote was approximately \$15k to install and update the system that we currently have.**

**Solicitor Lombardi received a phone call informing him that it was an emergency and even though he would like the council to vote on it. He stated that they couldn't wait for the bid process and would lose all data during the period.**

**Mrs. Keegan stated that the problem is that they don't know how much gas is left in the tanks or how much departments are using for the month of July. They can't allocate funds from the correct departments for gas usage from the system.**

**Mr. Yazbak suggested having everyone write down the gallons used**



on a log and the capacity of the tank can easily be figured out and stated that whether or not it qualifies as an emergency and if they are going to have a problem from someone else coming in and didn't go with a competitive bid and that is what they are trying to avoid.

Mr. Zwolenski recalled when he was in the Planning Department the system was in place in the late 1990's and does consider this as an emergency.

Mrs. Keegan stated she did receive other quotes and this was the best system and most frequently used by other towns.

Mr. Flaherty asked if this item was on the Department of Public Works capital improvement budget.

Mrs. Keegan replied that it should have been for the past three years because it was addressed back in 2011 when they updated all of the computers.

Ms. Hamilton stated that it has been over two weeks and after discussing this matter with the solicitor. She would like to declare this as an emergency because they are at the point where everyone is going to panic about it. Solicitor Lombardi felt better to come before the Town Council and provide them with the details and not to impede the process. What they did is contingent upon any approvals this evening, the unit that they would require has already been

ordered. There is no obligation on our part to pay for this and it may come in within the next couple of days. They would have had a major problem in the next couple of weeks if they had waited.

**MOTION** by Mr. Zwolenski, seconded by Mr. McGee and voted on a 3 to 1 roll call vote (Mr. Yazbak voted no) to accept comments received from the Town Administrator, Town Solicitor, Assistant Finance Director and Finance Director for emergency purposes approve the bid amount for the FuelMaster Gas Maintenance System and a Dell computer for a total of \$14,538.34.

#### **MEMORANDUM OF AGREEMENT WITH IBPO RE: SWORN OFFICERS AS DISPATCHERS**

Ms. Hamilton would like to continue this matter to the next meeting because the Chief of Police is on vacation and he would like to be present to explain what the memorandum of Agreement with IBPO is about.

**MOTION** by Mr. Zwolenski, seconded by Mr. McGee with discussion to continue the memorandum of agreement with IBPO, sworn officers as dispatchers to the August 19 meeting.

Mr. Yazbak requested if they could have something in their packets for the next meeting so they can review it.

**MOTION** by Mr. Zwolenski, seconded by Mr. McGee and voted

unanimously on a 4 to 0 aye vote to continue the memorandum of agreement with IBPO, sworn officers as dispatchers to the August 19 meeting.

## **KENDALL-DEAN DEED RESTRICTION**

Mr. Flaherty stated that this is an issue that came up with the Public Facilities Advisory Task Force that the Kendall-Dean School and the Union Village School house have handwritten deeds that include restrictions that the buildings be used for educational purposes and that significantly limits the town's ability to consider alternate uses

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for at least the Kendall-Dean School and contemplating making changes to the Li'l Red Schoolhouse. He spoke with Solicitor Lombardi along with Administrator Hamilton who has done some research on the Kendall Foundation and determine who their successors are and whether the town can possibly get a letter relieving us of that restriction and ultimately it will mean action in Superior Court and ask Solicitor Lombardi to continue that process and failure to do that, they are confined to using it in its current use only.

Mr. Yazbak asked if it would have to go before the General Assembly.

Solicitor Lombardi stated that it is on the land records, you would need court action to change the deed. He doesn't know if they have

**to find the successors because on the deed, list a corporation and the corporation is now gone. If they did have the successors and they say they have no interest in it, he feels that it would still have to go by court action not the General Assembly.**

**MOTION by Mr. Zwolenski, seconded by Mr. McGee and voted 4 to 0 on an aye vote to adjourn at 9:49.**

**Respectfully submitted,**

**Patricia A. Paul, Deputy Town Clerk**